

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

PETER POE, et al.,

Plaintiffs,

v.

GENTNER DRUMMOND, et al.,

Defendants.

Case No. 23-CV-00177-JFH-SH

PLAINTIFFS' MOTION FOR LEAVE TO FILE A SURREPLY

Pursuant to Local Rule LCvR 7.1(f), Plaintiffs respectfully request leave to file a surreply to Defendants' new material presented in their Reply in Support of Motion to Dismiss by Defendants 15-53 (Dkt. No. 127) regarding the Sixth Circuit's stay of the injunction in *L.W. v. Skrmetti*, No. 23-5600, 2023 WL 4410576 (6th Cir. July 8, 2023). A surreply is appropriate to "respond to new material raised for the first time in the movant's reply." *Green v. New Mexico*, 420 F.3d 1189, 1196 (10th Cir. 2005). The Northern District of Oklahoma frequently grants motions for leave to file a surreply to allow nonmovants to respond to new material in a reply. *See* Min. Order at 36, *Burr v. Mittal et al.*, Docket No. 4:23-cv-00071 (N.D. Okla. Feb 24, 2023), Court Docket; *see also* Order at 36, *Whitman v. DCP Midstream, LLC.*, Docket No. 4:22-cv-00106 (N.D. Okla. Mar 07, 2022), Court Docket; Elec. Order at 19, *CADS Construction, LLC v. Matrix Service, Inc.*, Docket No. 4:21-cv-00513 (N.D. Okla. Nov 29, 2021), Court Docket; Min. Order at 18, *BFK Enterprise Co. v ABB Motors and Mechanical, Inc. et al.*, Docket No. 4:19-cv-00291 (N.D. Okla. May 28, 2019), Court Docket; Min. Order at 21, *Spinazzola v. United States of America*, Docket No. 4:19-cv-00643 (N.D. Okla. Nov 26, 2019), Court Docket.

Defendants' arguments regarding the stay are new material not previously raised. As Defendants note, the stay was issued after Plaintiffs' response was due, Dkt. No. 127 at 2, preventing Plaintiffs from addressing the stay in Plaintiffs' Response to Defendants' Motions to Dismiss. Defendants dedicate an entire section of their reply to a decision Plaintiffs have not had an opportunity to address in opposition to Defendants' Motions to Dismiss.

Therefore, Plaintiffs respectfully move to file a limited surreply not to exceed five (5) pages to address Section II of Defendants' Reply in Support of Motion to Dismiss by Defendants 15-53. Plaintiffs request to file a surreply within fourteen (14) days of an order on this motion.

Pursuant to Local Rule 7.1(c), Plaintiffs' counsel has contacted Defendants' counsel about this motion. Defendants' counsel represented that Defendants oppose the relief requested.

Respectfully submitted,

/s/ Megan Lambert
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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2023, I electronically filed the foregoing Motion for Leave to File a Surreply with the Clerk of Court via the Court's CM/ECF system, which effects service upon all counsel of record.

Respectfully submitted,

/s/ Megan Lambert
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